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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,753	10/17/2003	Kelly J. Reasoner	10012665-4	1979

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

DINH, TAN X

ART UNIT	PAPER NUMBER
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2653

DATE MAILED: 11/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/688,753	Applicant(s) REASONER ET AL.	
	Examiner TAN X. DINH	Art Unit 2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/01/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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1) The amendment and Terminal Disclaimer filed 9/01/2005 are acknowledged. New claims 21-25 have been added.

2) The I.D.S filed 9/01/2005 has been considered by the Examiner. However, the Japan and/or foreign document(s), if they have not been written in English, are considered to the extent that could be understood from the English Abstract and the drawings.

Form PTO-1449 or PTO/SB/08 is(are) attached herein.

3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4) This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the

applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5) Claims 1-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over INOUE (5,940,354).

INOUE discloses a method for detecting a data cartridge as claimed in claims 1, 6, 7, 10 and 15, comprising the step of emitting a signal from a signal emitter on the cartridge engaging assembly into a chamber (Fig.7, cartridge engaging assembly 28, MO cartridge 48, light emitter 71), detecting at least a portion of emitted signal (Fig.7, light receiver 72) and generating output to indicate whether medium is present in cartridge engaging assembly based on detected signal (Fig.7, the signals generate by the light receiver 72 indicated the MO cartridge 48 is present in cartridge engaging assembly 28 or not. See also column 11, line 58 to column 12, line 46), *except that* the light detector is performed based on the light receiving *rather than* from light reflecting. It would have been obvious to someone within the level of skill in the art at the time of the invention was made to modify the light detector of INOUE's cartridge detector as claimed. The rationale is as follows:

(i) The light detector in INOUE's system performs the same functions with the applicant's invention, which is detected the

present/absent of the data cartridge in the cartridge engaging assembly, and

(ii) The principle of light detector using reflecting light for detecting the present/absent of the data cartridge is old and widely used in the art (see GEIGER et al (5,099,465) in previous Office action). Therefore, one of ordinary skill in the art at the time of the invention was made would have been motivated to modify light detector in INOUE's system by rearranging the light receiver for receiving the reflecting light in order to detect the present/absent of the data cartridge in the cartridge engaging assembly as claimed.

As to claims 2 and 3, it would have been obvious to emit the signal at start up or at power up in INOUE's cartridge detecting system since the emitting signal could be modified to activate at any desirable time during operation of the changer.

As to claim 4, the detecting method of INOUE's cartridge detecting system inherent focusing the light (Fig.1, focusing light 9 toward compact disc 5 and reflected light 9b) during detecting process in order to get the signal accuracy.

As to claim 5, it would have been obvious to modify the light detecting of INOUE's cartridge detecting system by including a color-deciphering component (e.g., suitable wavelength detection

and measurement hardware and the related program code, where necessary) for detecting the color of data cartridge since color-deciphering component is old and widely used in the art for determining the characteristic of a storage medium (applicant did not invents this color-deciphering component, just applies this well known color-deciphering component in the light detector for determining the color of data cartridge).

As to claims 8 and 9, INOUE's cartridge detecting system shows a light source (Fig.7, light emitter 71) and light detector (Fig.7, light receiver 71).

As to claims 11 and 16, it would have been obvious to move the picker assembly after an unloading operation if the data cartridge is disengaged from the picker assembly in INOUE's cartridge detecting system as claimed since picker assembly could be moved during loading (present of data cartridge) and unloading (absent of data cartridge) for performing other operations on the data storage device.

Claims 12-14 and 18-20 are rejected with the same reasons set forth in claim 5 above.

As to claim 17, INOUE's cartridge detecting system shows a processor for determining the data cartridge is engaged in picker assembly (Fig.1, MPU 51).

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As to claims 21 and 22, INOUE's cartridge detecting system shows the step of moving the cartridge engaging assembly between first and second positions in response to the present of data cartridge (column 11, line 58 to column 12, line 46).

As to claim 23, the feature of mounting light emitter in a computer board is inherent in INOUE's cartridge detecting system since every circuit boards in INOUE's cartridge detecting system is considered as computer board.

Claims 24 and 25 are rejected with the same reasons set forth in claim 5 above.

6) Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

7) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(See form PTO-892 attached herein).

8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to TAN XUAN DINH whose telephone number is (571)272-7586. The examiner can normally be reached on MONDAY-FRIDAY from 8:00AM to 5:00PM.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TAN DINH
PRIMARY EXAMINER

November 14, 2005